UNITED
NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/29/Add.3
20 August 1997

ENGLISH
Original: SPANISH

COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Second periodic reports of States parties due in 1995

Addendum

GUATEMALA*

[13 February 1997]

CONTENTS

		Paragraphs	Page
Introduction		1 - 6	3
I.	THE GENERAL SITUATION IN THE COUNTRY	7 - 20	4
II.	THE HUMAN RIGHTS POLICY CONTEXT	21 - 24	6
III.	THE SITUATION AS REGARDS RIGHTS PROTECTED BY THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN GUATEMALA	25 - 30	7

* The initial report submitted by the Government of Guatemala is contained in document CAT/C/12/Add.5 and Add.6; for its consideration by the Committee, see documents CAT/C/SR.232, 233/Add.1 and Add.2, 237/Add.1 and the Official Records of the General Assembly, Forty-ninth session, Supplement No. 44 (A/51/44, paras. 42-57).

GE.97-18062 (E)

CONTENTS (continued)

		Paragraphs	Pages
IV.	INFORMATION ON MEASURES AND ACTIVITIES CONNECTED WITH THE APPLICATION OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT	31 - 66	8
A.	Measures to strengthen the rule of law	31 - 43	8
B.	Programmes for the intensive training of prosecutors, judges and police officers	44 - 51	10
C.	Facilities and financial resources made available to prosecutors, judges and the National Police with a view to improving law enforcement	52 - 58	11
D.	Measures taken to protect witnesses, judges and prosecutors who have been threatened or intimidated	59 - 63	13
E.	Limitations on the application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or punishment	64 - 66	13

Introduction

1. This document contains the first supplementary report (second periodic report) submitted by Guatemala to the United Nations Committee against Torture under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment pursuant to the obligation assumed by States parties to submit supplementary reports every four years. These reports describe the new measures taken by the State party in giving effect to the provisions of the Convention.

2. This report accordingly presents an account of the efforts made by the Government of Guatemala to comply with its international obligations in this respect during the period 31 June 1995 to 30 August 1996. This time span is explained by the fact that Guatemala's initial report was presented officially to the Committee against Torture at its 232nd and 233rd meetings on 16 November 1995. Furthermore, the Government of the Republic of Guatemala on 31 July 1995 submitted an addendum to its initial report which was reproduced by the Committee in document CAT/C/12/Add.6 of 10 August 1995. The present document summarizes its contents and also describes the efforts made by the Government of Guatemala in the light of the comments that the international community transmitted to it through the Committee against Torture.

3. Section I deals with the general situation prevailing in the country and particularly during the first few months of the new Government, which took office on 14 January this year.

4. Section II gives an account of the general context in which the human rights policy is being implemented and the most significant achievements in this area.

5. Section III analyses the situation in Guatemala from the standpoint of the rights protected by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This analysis is based on information published not only by the United Nations Human Rights Verification Mission in Guatemala (MINUGUA) but also by the most important non-governmental organizations (NGOs) working to promote and protect human rights.

6. Section IV describes the main activities being carried out in order to implement the provisions of the Convention, as well as the obstacles encountered by the Government in its efforts to improve the situation in the light of the decision and undertaking to redouble "efforts that have hitherto been inadequate and to overcome hitherto insuperable obstacles".*

---

* Statement by Mr. Alvaro Arzú Trigoyen on assuming the office of President of the Republic on 14 January 1996.

I. THE GENERAL SITUATION IN THE COUNTRY

7. In view of the transparency of the results of the electoral process that began at the end of 1995 and came to an end on 7 January last with a second round of balloting, it may be said that it constitutes a resolute step forward in the consolidation of the democratization process, particularly as for the first time it entailed broad participation by various segments of society such as the indigenous population and human rights advocates.

8. This point is also of importance insofar as the elections resulted not only in a change of administration but also changes and transformations towards genuine democratization, which can be achieved only if major efforts are made in sensitive areas such as security of person, the peace agenda, measures to curb impunity, discrimination and privileges, the improvement of living conditions and the modernization of the State, that constitute the main elements on which the Government proposal for 1996-2000 proposal has been based.

9. The country's present situation is influenced to a great extent by activities connected with the peace negotiation process. In this respect, the Government's first act was to establish a new Government Peace Commission which created conditions favourable for negotiations that will undoubtedly result in a firm and lasting peace agreement, thereby putting an end to the armed conflict that has plagued our society for the past 36 years.

10. In addition, the Comandacia General de la Unidad Revolucionaria Nacional Guatemalteca (URNG) unilaterally decided to suspend offensive military operations against military objectives. The President of the Republic, in his capacity as Commander in Chief of the Army, responded by officially announcing that Guatemala's army, was also being ordered through its military commanders, to suspend counter-insurgency operations.

11. Once this new scenario had been brought into being, it became possible, on 6 May last, to sign the Agreement on Social and Economic Aspects and the Agrarian Situation in Mexico City. The content of this Agreement is in itself of importance, since it highlights various matters such as social participation and concertation, the participation of women in economic and social development, education and training, health, social security, housing, access to land and production resources, support structures, the legal framework and judicial guarantees, labour protection, protection of the environment, resources, modernization of the public administration and fiscal policy, on the basis of which the situation in post-war Guatemala will be tackled.

12. The peace negotiation process has followed its course and hopefully it will shortly be possible to sign the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society.

13. In line with the efforts made to achieve the signature of a firm and lasting peace agreement, on 5 June 1996 the President of the Republic officially introduced the members of the Political Commission on International

Cooperation for Peace, which will be responsible for administering the international financial assistance to be used in implementing the agreements concluded during this process.

14. With respect to security of person, it is obvious that previous efforts made in this area have been inadequate since they failed to do away with insecurity, high risk levels, corruption and the critical situation as regards the administration of justice and law-enforcement which has created a climate that undermines the confidence of citizens in bodies responsible for ensuring their protection.

15. For this reason public security is to be protected under the Government's Programme for 1996-2000 in the following way: (a) protection of the exercise, in a free and responsible manner, the rights and freedoms of individuals and groups guaranteed by the Constitution of the Republic; (b) preventive action or reaction, as necessary, to minimize the risks to which persons, groups and communities are exposed in order to ensure that they are able to live together in a harmonious and peaceful fashion; (c) assistance to individuals, groups and communities in the event of a public emergency or calamity; (d) action to prevent the commission of offences, to investigate offences and prosecute their perpetrators; (e) restoration of normal and peaceful conditions by appropriate methods in the event of disturbances; and (f) the formulation of a public security policy.

16. There is clearly an urgent need for action to improve the administration of justice. This reflects recognition of the fact that legal proceedings are still slow, that magistrates and judges, secretaries, officials and court officers lack adequate training, that the cost of legal proceedings is beyond the means of the people, that there are not enough courts, whose location leaves much to be desired, that applications for proceedings must be submitted in writing and in Spanish and in most cases with the help of a lawyer, and that the new Code of Penal Procedure is not operational and calls for the participation of judges, defence lawyers and bilingual interpreters. It is also clear that social awareness is lacking, that persons responsible for the administration of justice are incapable of discharging their functions properly and that the officials and staff of the Judiciary act in an erratic way.

17. In view of this deplorable situation, the Government of the Republic, in its 1996-2000 Programme takes the view that it is vital to organize the Judiciary in an efficient manner and ensure the complete availability of its human and material resources so that it can provide legal safeguards and enforce the law when asked to do so by any citizen.

18. The Government's main objective in this area is to provide decisive support for the functional restructuring of the Judiciary on the basis of complete respect for and guarantees of the independence of the branches of government in order to restore the people's confidence in the administration of justice in accordance with the principles of accessibility, independence and efficiency.

19. If, on the other hand, arbitrariness, violence, corruption, impunity, the abuse of power and delays in the application of the law persist, the task of consolidating the rule of law will become even more difficult.

20. Of particular importance from the standpoint of bolstering the efforts needed to overcome the difficulties that still bedevil the exercise of human rights in Guatemala was the Mission of the United Nations Centre for Human Rights which visited the country at the end of May. The purpose of this visit was to identify areas requiring assistance under institutional aid programmes, such as the Office of the Procurator for Human Rights and the National Police.

II. THE HUMAN RIGHTS POLICY CONTEXT

21. The formulation of a new human rights policy reflects the fact that the State of Guatemala has made institutional progress in respect of such rights. However, existing legislation has failed to create the necessary confidence among citizens in the institutions responsible for ensuring that they can live together peacefully.

22. For this reason, the protection and defence of human rights must be consolidated. Yet this can be done only through greater participation by members of society as a whole so that they will be able, in a simple, open and reliable manner, to assert their rights and assume their responsibilities. In short, what is required is a general effort by society as a whole and not by the Government alone.

23. The formulation of a policy in this sense is possible only if it is based on national and international efforts that are coherent and realistic. In other words, what is needed is public recognition of our difficulties, errors and shortcomings and a search for practical and realistic solutions*.

24. The implementation of a policy of this nature calls for the restructuring of the relevant government bodies, and this is precisely what is being done by the Presidential Coordinating Committee for Government Human Rights Policy (COPREDEH) pursuant to the Government's commitments to the international community*. The following action is being taken as a result of its work:

(a) On the basis of direct contact with NGOs dealing with human rights and representatives of the victims, their version of the facts as well as reports of irregularities in the work of State bodies are being heard;

(b) When complaints against the State are received and investigated as a result of the identification of State agents as the likely perpetrators of human rights violations, their possible responsibility is to be recognized;

---

* Statement by the Minister for Foreign Affairs of the Republic of Guatemala, Dr. Eduardo Stein, in the Commission on Human Rights at its fifty-second session in Geneva, Switzerland.

(c) COPREDEH is speeding up the execution of warrants issued by the courts for the arrest of persons accused of human rights violations;

(d) COPREDEH is supporting, to the best of its ability, the action and measures taken by the Public Prosecutor's Office and the National Police to ensure that the results of investigations carried out provide evidence enabling the authorities to initiate proceedings based on the principle of due process;

(e) The various bodies and services of the Executive are being urged to take effective action to curb the impunity from which the population has suffered;

(f) In accordance with the peace agreements, action is being taken to downsize and rationalize the armed forces and to disband the Voluntary Civil Defence Committees;

(g) A policy taking into account the actual situation that prevailed in the country during the past 36 years has been adopted in respect of cases before the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. It is also considered that amicable solutions must be sought in respect of claims against the State;

(h) The body established to provide protection for threatened persons is being reactivated.

III. THE SITUATION AS REGARDS RIGHTS PROTECTED BY THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN GUATEMALA

25. Various bodies and NGOs have carried out a statistical analysis of the situation during the period 1 January to 30 June 1996 to determine how far human rights in Guatemala were or were not respected. All the statistics on rights protected by the Convention against Torture reveal a decline in the number of cases reported. On the other hand, complaints of cruel, inhuman or degrading treatment, and particularly of acts committed by agents of the State, are still being received.

26. As a result of MINUGUA's verification of the Comprehensive Agreement on Human Rights concluded by the Government of the Republic and the Unidad Revolucionaria Nacional Guatemalteca, the Mission in its fifth report to the United Nations Secretary-General (A/50/1006) of 19 July 1996 stated that only four cases of torture were reported during the period in question. These complaints involved the alleged violations of eight rights. Of these violations only two cases were subjected to the verification process and neither was substantiated.

27. The Mission received seven complaints of cruel, inhuman or degrading treatment involving the violation of 10 rights of the persons in question. Nine of these cases were verified and only five were substantiated.

28. With regard to ill-treatment, MINUGUA reported that a total of 39 complaints had been received which, according to the Mission, involved a total of 73 violations of the right to physical integrity; 27 violations were verified and 21 were substantiated.

29. During the same period, the Human Rights Office of the Archbishopric of Guatemala recorded a total of three documented cases of torture as well as 255 cases of threats. The Guatemalan Commission for Human Rights (CDHG) reported that, during the first six months of 1966, there had been 97 death threats and that in two cases of enforced disappearance the victims showed signs of having been tortured.

30. In evaluating the statistics in this area, it is noteworthy that, according to MINUGUA, "Even though complaints of torture have decreased, the large number of violations of the right to integrity and security of person show that the Government has not fully guaranteed this right, especially where cruel, inhuman or degrading treatment by State agents is concerned" (A/50/1006, para. 170). This confirms once again that the problem is the result of the State's weakness and does not reflect a deliberate policy pursued by Guatemala against its people. What is needed therefore is to develop and improve the necessary machinery enabling the State, through the Government, to fulfil its obligation to protect its population against such acts and to bring to justice State agents who are found to be responsible for these offences.

IV. INFORMATION ON MEASURES AND ACTIVITIES CONNECTED WITH THE APPLICATION OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

A. Measures to strengthen the rule of law

31. Pursuant to the recommendations addressed by the international community to the Government in the context of the advisory services received by Guatemala in the field of human rights, the Penal Code was amended by Decrees Nos. 18-95 and 58-95, adopted by Congress, to define the offences of extrajudicial execution, enforced disappearance and torture, which did not appear in Guatemalan legislation, since it is clear that such offences constitute a serious threat to society, mainly by encouraging insecurity, anxiety and disquiet, and place the physical integrity and lives of individuals at serious risk (see annex 1).

32. The institution of "military commissioner" has been done away with, and as a result 24,400 commissioners were demobilized on 14 September 1995. In order to complete this process, Congress, by Decree No. 79-95, amended the Organic Law of the Army and abolished this post. Furthermore, the Executive, on 15 September 1995, issued Government Order No. 434-95 rescinding the Regulations for Military Commissioners (see annex 2).

33. In addition, the Ministry of National Defence ordered all military commands to launch information campaigns at the national level to acquaint the population with this demobilization and to call in all the credentials of military commissioners or their collaborators to prevent them from being misused (Circulars Nos. DI-85-01-0086-07 and DI-85-01-0087-07 of 11 May 1996).

34. The implementation of these measures has the effect of strengthening the rule of law since the abolition of the post of military commissioner reinforces civil authority in areas where State agents were few and far between.

35. The information presented above constitutes official notification of the amendment of the Penal Code and the abolition of the institution of military commissioner, since these developments were only described verbally at the 232nd and 233rd meetings of the Committee against Torture on 16 November 1995.

36. The commitment to do away with all illegal ways in which persons perform their military service - which is a right and duty under the Constitution - as well as ways in which they are forced to do so against their will has been complied with.

37. The undertaking not to encourage or promote the formation of new Voluntary Civil Defence Committees is also being complied with. In this connection it may be noted that, independently of the possibility that the Agreement on a Firm and Lasting Peace might contain a reference to this subject, the disbandment of these Committees consisting of about 220,000 persons, of whom 15,000 were still armed, began on 15 July 1996.

38. On 9 August 1996, 800 regional Civilian Patrols were disarmed and disbanded in the town of Colotenango, Huehuetenango department; this action was important from the standpoint of the communities concerned which, like many others, had been affected by the armed conflict. This step, which had not been scheduled, was taken pursuant to a request by COPREDEH that priority should be given to demobilization in that region.

39. It may be added that the present Government is of the view that this demobilization does not relieve members of Voluntary Civil Defence Committees who may have committed acts punishable under the law of the obligation to appear before the courts to clarify their situation.

40. The Code of Penal Procedure was amended by Decree No. 32-96 adopted by Congress to make the administration of justice more efficient. The amendments in question prohibit alternative penalties (house arrest, surety, etc.) in proceedings against recidivists or habitual offenders or in the case of aggravated homicide, murder, parricide, aggravated rape, culpable rape, the rape of a minor under 12 years of age, kidnapping or abduction of any kind, sabotage, aggravated robbery and aggravated theft (see annex 3).

41. Decree No. 41-96 of the Congress of the Republic amended article 2 of the second part of Decree No. 214-1878, Military Code, and deleted article 58 (f) of the Judiciary Act, Decree No. 2-89 of the Congress of the Republic, thereby transferring jurisdiction over essentially military offences or minor offences to the courts established by the Military Code, and making the Code of Penal Procedure applicable in cases of offences, minor offences and similar acts under the ordinary law committed by members of the armed forces, who will be tried by the ordinary courts covered by the Judiciary Act. This reform reflects one of MINUGUA's recommendations concerning the reform of the military courts. As a result, since 24 July of this year about 400 cases

involving offences under the ordinary law of which members of the army were accused and that were being dealt with by the military courts were transferred to the civil courts (see annex 4).

42. A large number of the members of the National Police and Financial Police have been dismissed and turned over to the authorities for alleged participation in violations of human rights and for minor offences justifying their replacement. During the first stage of this purge, 118 members of the National Police were handed over to the authorities and during the second the same fate befell a further 122, mainly for acts of corruption. Six former members of the Police are being sought, accused of abuses against street children.

43. The Congress of the Republic, by Decree No. 63-96, amended the Weapons and Munitions Act so as to prohibit the bearing of arms by persons under 25 years of age with the exception of those who are active members of the army and the civil security forces (see annex 5). It is noteworthy that, during the first few months of 1996, the number of weapons confiscated by the security forces increased considerably, the National Police seizing 1,108 weapons during this period in comparison with 572 during the same period of 1995. Greater efforts to control the proliferation of weapons in the possession of individuals resulted in a doubling of the number of weapons seized this quarter in comparison with the previous period, and enforcement of the provisions of the above Act will enable the Government gradually to master the situation.

B. Programmes for the intensive training of prosecutors, judges and police officers

44. The Public Prosecutor's Office, through its Training, Education and Human Resources Development Unit, and with the support of MINUGUA and the Centre for Strengthening the Rule of Law (CREA), offered various courses on the following subjects between May and November 1995:

(a) The handling of cases;

(b) The system of criminal justice (initial and intermediary); and

(c) Introduction to criminal investigation procedures.

45. These courses were organized for prosecutors and court officers, of whom 528 participated (104 women and 424 men).

46. During the period from March to June 1996, the Public Prosecutor's Office, with the assistance of CREA, organized two seminars on (a) specific procedure in legislation on criminal proceedings and (b) the theory of offences. Both seminars were intended for district prosecutors and court officials, of whom 278 participated (56 women and 222 men).

47. In 1995, the Judiciary, through its College of Legal Studies, offered 58 various types of training in which 1,778 members of the Judiciary participated. Between January and July 1996, 44 tra_ning courses attended by 473 members of the Judiciary were given.

48. Between February and June 1996, 24 courses were offered under the Institutional Criminal Investigation Training Programme (ICITAP) and attended by 557 prosecutors and staff of the Public Prosecutor's Office, National Police investigators and members of the Anti-Drug Operations Department of the Financial Police.

49. The Joint MINUGUA-UNDP Unit is offering a basic course for future National Police officers, and a 6-month programme of studies was developed for this purpose. The course is being attended by 480 students from the National Police Academy. The Joint Unit is also developing teaching materials to be used in the programme of studies.

50. MINUGUA is making efforts to improve the efficiency of the National Police by assigning to it five police observers who initiated this process in the key areas of police training and criminal investigation. Similarly, the Mission recommended the introduction of a system of rotation within the Identity Card Office and the Criminological Investigation Department in order to improve the coordination demanded by the investigation process.

51. During the first six months of 1996, COPREDEH organized courses on human rights for 1,677 members of the National Police and Financial Police.

C. Facilities and financial resources made available to prosecutors, judges and the National Police with a view to improving law enforcement

52. It is clear that the Public Prosecutor's Office must be strengthened if it is to overcome obvious shortcomings. For this purpose, a cooperation agreement was concluded between the Public Prosecutor's Office and MINUGUA in February 1995 and was renewed in August 1995.

53. This agreement resulted in the establishment of the Technical Advisory Unit. During the past few months this Unit has been drawing up the first draft of the Prosecutor's Manual, and it is also preparing appropriate forms to facilitate the work of the Public Prosecutor's Office. In addition it has drawn up the draft regulations for the career structure of the Public Prosecutor's Office and on the functioning of the Council of the Public Prosecutor's Office, which were approved in February 1996.

54. Under this agreement, the Procurator-General was provided with advice concerning instructions of a general nature to be used in the technical organization of the Public Prosecutor's Office. To this end, a comprehensive plan for the reorganization of the Metropolitan Procurator-General's Office is being drawn up. Cooperation with the National Police is being improved and arrangements are being made which in the near future will result in the harmonization of scientific investigation methods.

55. In view of the appointment of a new Procurator-General on 16 May 1996, it was decided that the resources available to the Public Prosecutor's Office should be allocated in a way that would facilitate the work of prosecutors. This was done in the following manner:

(a) District prosecutors were provided with computers as well as furniture and office equipment which will help to rationalize the work of the Public Prosecutor's Office; and

(b) District prosecutors were provided with vehicles and the equipment they need having regard to the requirements and special features of each region.

56. MINUGUA is doing a great deal to promote the administration of justice in Guatemala and to this end it is supporting the following projects:

(a) Establishment of a Centre for the Administration of Justice for Area Ixil, through which the Judiciary will establish a court and a Public Defender's Office in this area and provide translation and interpretation services for Maya languages. The Public Prosecutor's Office will provide a prosecutor, the National Police, a local police station, and the National Fund for Peace (FONAPAZ) will finance the cost of their equipment as well as salaries for one year. The project is to be implemented this year;

(b) The Administration of Justice and Linguistic Pluralism Project. The purpose of this project is to incorporate Maya languages into the administration of justice system. The project has been approved by the Judiciary and the Public Prosecutor's Office which, together with regional indigenous organizations are participating in it;

(c) The establishment of peoples' buffets in the Quiché and the Petén departments in cooperation with the local authorities and private universities;

(d) Seminars on local Solutions for the Administration of Justice which are intended to stimulate dialogue and provide joint training for various officials of the administration of justice system such as prosecutors of the Public Prosecutor's Office, judges and National Police officers;

(e) Technical Cooperation Agreement with the Public Criminal Defence Service of the Judiciary.

57. The wages of the civil security forces must be increased as a matter of urgency and these forces must be provided with the equipment and weapons they need to perform their functions in the most efficient manner. There are a large number of shortcomings in this area although during the first six months of the present Government over 25 million quetzales were spent on the purchase of this equipment.

58. The National Police have authorized the use of the phone number 110 on a 24-hour basis by persons wishing to make complaints or to convey information of a confidential nature. This service has proved its value as a law-enforcement device since it enables the population to cooperate with the authorities in combating organized crime.

D. Measures taken to protect witnesses, judges and prosecutors who have been threatened or intimidated

59. The situations created by threats directed at judges, prosecutors and witnesses obliged the National Police to form a special brigade to provide them with a measure of protection.

60. Moreover, the Congress of the Republic has approved, by Decree No. 72-96, an Act establishing the Service for the Protection of Persons involved in Proceedings and Persons connecting with the Administration of Justice. This Decree states that, in order to ensure the effective administration of justice and the integrity and security of judges, prosecutors, defence lawyers and other persons participating in proceedings, such persons may in future, should they be threatened, ask to have their telephones tapped so that the source of the threats can be determined.

61. The body in charge of this Service consists of officials from the Office of the Attorney-General of the Republic and the Ministry of the Interior plus the Director of the Office for Protection, who will form a council responsible for examining requests and deciding whether or not to provide protection.

62. The service offered under this Act is made available on the basis of an evaluation carried out by the Office; what has to be determined in the case of witnesses is whether the risk is real, the seriousness of the punishable act, the probative value of the declaration, and whether information leading to the identification of participants in other acts connected with the case can be obtained by other means.

63. A study on security was carried out by the Public Prosecutor's Office with a view to drawing up a body of recommendations that would be of practical use to prosecutors and the staff of the Public Prosecutor's office in their work. These recommendations were used as a basis for the preparation of a document entitled Security Instructions for Judicial Officials and Officials of the Public Prosecutor's Office.

E. Limitations on the application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

64. Notwithstanding the progress that has been made, it is obvious that efforts to comply with the provisions of the Convention against Torture are encountering various difficulties. The identification of the main ones, and above all the search for possible alternative ways of overcoming them, has obliged the Government to recognize that what has been done so far is not enough.

65. What must be taken into account in this connection is the continued existence of various factors, such as (a) a climate of violence that creates a feeling of insecurity among citizens; (b) the large number of threats, abductions and other offences whose perpetrators have not been identified; and (c) the reservations of the population about the effectiveness of the bodies responsible for investigating and punishing offences, which to some extent explains why individuals decide to do justice themselves. Although this

happens in only a few cases greater efforts have to be made by the authorities to put an end to the practice, which is unacceptable, as stated by MINUGUA in its fifth report.

66. There are a number of reasons for this situation which in a way explain the existence of the difficulties being encountered. However, the Government is endeavouring to overcome them so as to be able in the near future to provide citizens with the security to which they are entitled and to live up to its obligations under the agreements and conventions to which the State of Guatemala has acceded, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In the circumstances, action must be taken to promote the implementation of a comprehensive policy to curb impunity as well as to establish effective coordination between the Judiciary, the Public Prosecutor's Office and the security forces.

List of annexes*

1. Decree No. 48-95 of the Congress of the Republic of Guatemala on the amendment of the Penal Code, Decree No. 17-73.

2. Decree No. 79-95 of the Congress of the Republic of Guatemala.

3. Decree No. 32-96 of the Congress of the Republic of Guatemala.

4. Decree No. 41-96 of the Congress of the Republic of Guatemala.

5. Decree No. 63-96 of the Congress of the Republic of Guatemala.

6. Decree No. 70-96 of the Congress of the Republic of Guatemala.

---

* The annexes may be consulted in the archives of the United Nations Centre for Human Rights.